

REMARKS

This Amendment is in response to the outstanding Official Action mailed October 27, 2004, the shortened statutory period for filing a response having expired on January 27, 2005. In this regard, Applicants submit herewith a three-month extension petition to reset the deadline for responding to the Official Action to and including April 27, 2005. Reconsideration of the Examiner's rejection is respectfully requested.

The present application includes claims 1-81, of which claims 1-42 have been designated as allowed. The Examiner has also designated dependent claims 46, 49, 53, 56, 60, 63, 67-70 and 72 as being allowable if rewritten into independent form including all the limitations of their base claim and any intervening claims. As to the remaining claims, the Examiner has rejected these claims under 35 U.S.C. § 102(b) as being anticipated by *Hauri et al.*, WO 00/00093. Of the rejected claims, claims 43, 50, 57 and 64 have been presented in independent form.

*Hauri et al.* discloses in Fig. 13a an embodiment which eliminates the use of the cutting guide 11 as shown in Fig. 12. In this regard, the saw blade 12 is received within a slot of a guide 13k. The guide is mounted to a moveable arm 13. The arm includes link 13h which is pivotable to a link 13f (see 13g in Fig. 13b). Link 13f is in turn pivoted to link 13c. Link 13c is rotatably coupled via assembly 13q as further shown in Fig. 13c. This assembly is attached to base bar 10g, in turn being coupled to the patient's bone as shown in Fig. 13a. The base bar, as shown in Fig. 13a, is translatable along path 10d. The Examiner also contends that *Hauri et al.* discloses a computer navigation system 16 coupled to the guide 13k. This disclosure

in *Hauri et al.* does not anticipate Applicants' claimed invention.

Turning to independent claims 43, 50, 57 and 64, each of these claims include the limitation of "a computer navigation system coupled to said resection guide." As disclosed in Fig. 5 and described in Applicants' specification, after the resection guide 14 is attached to the alignment device 12, a tracker 100 is attached to the resection guide (see page 12, lines 24-26). With the tracker attached, the cam locks 12a, 12b, 12c are opened to allow the resection guide to be moved in translational and rotational movement until the navigation software indicates its proper alignment. Thereafter, the cam locks are relocked. See page 13, lines 1-19.

Contrary to Applicants' claimed invention, *Hauri et al.* does not disclose a computer navigation system coupled to a resection guide. Rather, the computer navigation system of *Hauri et al.* is coupled to the alignment device. In this regard, the computer 16 disclosed in *Hauri et al.* is operatively connected to the drive device 17 for rotation of knurled screws 5v, 10f, such as shown in Fig. 14. In one embodiment, the drive device 17 manipulates the movement device 10 so as to measure the geometry of the condyles 1a at selected points as well as the tibial plateau. As shown in Fig. 10, a guide 10k for a measurement probe 101 having a measurement tip 10n is arranged on the adaptor part 10h. These coordinates are transferred to the computer having a database of geometric data of available knee-implants to be compared with the measured data, so as to propose an optimal fitting knee-joint implant.

The embodiment disclosed in Fig. 13a eliminates the use of the sawing jig 11. In this regard, the position of the sawing device 14 and thus the position of the saw blade 12 are controlled and determined directly by the movement device 10 whose construction was previously described. The holding arm 13

can be designed with sensors to make it possible to detect the angles in the movement direction 13d, 13g and 13m in order to determine the position of the saw blade 12 or in order to measure the position and geometry of the condyle 1a with a probe head arranged in place of the saw blade 12.

What is clear from the foregoing is that the navigation system of *Hauri et al.* as referred to by the Examiner in the Official Action is coupled to the alignment device, and not to the resection guide as claimed by Applicants. There is no disclosure in *Hauri et al.* of providing a tracker or other sensors coupled to the resection guide, i.e., guide 13k. Accordingly, the Examiner's rejection is considered traverse and should therefore be withdrawn.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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